

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 494 of 1989

For Approval and Signature:

Hon'ble MR.JUSTICE D.G.KARIA

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

INDIRABEN PRAKASHCHANDRA JAIN

Versus

STATE OF GUJARAT

Appearance: Petitioner Absent

Mr.Nigam Shukla,APP, absent.

ORAL JUDGMENT:

By this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, direction or order for quashing and setting aside the order dated January 30,1989 at Annexure 'B' to the petition,passed by the learned Chief Judicial Magistrate, Ahmedabad (Rural) at Mirzapur, Ahmedabad, in Criminal Case No.9/89. The petitioner has also sought direction for investigation of the offence under section 302 of the Indian Penal Code to the Crime Branch Police, Ahmedabad.

The petitioner, Indiraben Prakashchandra Jain,, is a sister of the complainant, Munnalal Ramrattan Jain. The complainant, Munnalal, filed the aforesaid Criminal Case No.9 of 1989 in the Court of the Judicial Magistrate, First Class,Ahmedabad (Rural),Mirzapur, alleging, interalia, that his another sister named Sunita, who was married with Maheshchandra Vimalkumar Jain, the accused No.1, in 1987, was subjected to cruelty by accused No.1, the husband, and accused Nos.2 to 5, who were the in-laws of the deceased Sunita. It is alleged in the complaint that on January 24,1989, the deceased, Sunita, was caused injuries and was done to death, or she committed suicide. She lodged the complaint of this before Naranpura Police Station, but no action was taken and as such a complaint was lodged in the Court. The said complaint came to be lodged on January 30,1989. The learned Chief Judicial Magistrate, Ahmedabad, by his order of the same date, directed the Police Inspector of DCB, Ahmedabad to inquire into the case and to make report by February 15,1989. The said order dated January 30,1989 passed by the Chief Judicial Magistrate, Ahmedabad (Rural) below the said Criminal Case No.9/89, has been challenged bythe petitioner on several grounds.

The Advocate through whom the petitioner preferred the present Special Criminal Application has been elevated to the Bench and consequently a notice was issued to the petitioner to appear and/or to make further arrangement for engaging another Advocate. The petitioner, though served, has not chosen to appear. Unfortunately, the Addl.Public Prosecutor, has also not remained present at the time of hearing of the petition.

The incident is of January 24, 1989 in respect of which the complaint was lodged on January 30,1989. In all probabilities, as per the impugned order, the Police Inspector of DCB,Ahmedabad, might have submitted his report in the case. This petition came to be filed on 12.5.1989 and yet there is no reference in it whether such report was filed by the Police Inspector,DCB, Ahmedabad. In the facts and circumstances of the case, the matter has become infructuous, inasmuch as the report having been filed, the Court would have taken cognizance, if any, against the persons and they would have been tried accordingly. Unfortunately, the petitioner and the APP have not remained present to inform the Court if anything

else has taken place in the matter. It is obvious that the Sessions Case is proceeded against the accused persons, the petitioner would have lost all her interest in the matter and would not have chosen to remain present, though served. Under the circumstances, the petition fails and is rejected. Rule discharged.
